

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Request by Northern States
Power Company d/b/a Xcel Energy for
Approval of a Power Purchase Agreement with
Chanarambie Power Partners LLC

ISSUE DATE: July 17, 2002

DOCKET NO. E-002/M-00-622

ORDER APPROVING THE XCEL-
CHANARAMBIE POWER PURCHASE
AGREEMENT, AS MODIFIED

PROCEDURAL HISTORY

On June 23, 2000, Xcel filed its Request for Proposals (RFP) for 80 MW of wind energy. This RFP was issued to select a project to complete the final 80 MW of wind (Wind Phase IV) required by the wind mandate of 425 MW.¹

On September 27, 2001, Xcel filed its final report and certification of its selection of Chanarambie Power Partners (Chanarambie) with the Commission. Xcel did not file a short list selection with the Commission or the Department of Commerce (the Department) prior to final selection as required under the Commission-approved competitive bidding process.

On February 11, 2002, the Commission issued an Order providing clarification, warning, and corrective directions to Xcel for its unilateral decision not to file a short list selection. In this same Order, the Commission authorized Xcel to proceed with the Wind Phase IV bid. The Commission clarified that it would consider approving the Company's final selection of the Chanarambie project as part of the review of the Power Purchase Agreement (PPA) between Xcel and Chanarambie.

¹ The requirement that Xcel develop a certain level of wind generation on a specific timetable (the wind mandate) is set forth in Minn. Stat. § 216B.2423, subd. 1. Under this subdivision, Xcel is required to have 425 MW of wind energy operational or under contract by December 31, 2002. This provision of the statute was adopted in 1994.

On May 10, 2002, Xcel filed a petition seeking Commission approval of the Chanarambie PPA and a determination that the terms and prices are reasonable and in the interest of ratepayers.

On May 30, 2002, the Department filed comments on 1) the reasonableness of the purchase price to be paid by Excel for the wind energy and 2) whether Xcel's ratepayers are appropriately protected from the financial and operational risks of the wind project.

On June 7, 2001, Xcel filed reply comments addressing three issues: 1) correction of the Production Tax Credit (PTC) formula; 2) the symmetrical fairness issue regarding Section 2.4(b), (iii); and 3) transmission cost recovery issues.

On June 10, 2002, Chanarambie filed reply comments asking the Commission to reject the Department's argument that symmetry required amending the PPA to provide price adjustments to reduce price if the PTC is increased. Chanarambie recommended that the Commission approve the PPA with one change: correction of the formula in Section 2.4 (b), (iii).

On June 27, 2002, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

I. BACKGROUND

The Xcel/Chanarambie PPA is the result of negotiations following Xcel's selection of the Chanarambie project in a multiple-step competitive bidding process approved by the Commission. The filing of the PPA with the Commission for approval is the final step for this project in the bidding process.

Chanarambie Power Partners, LLC (Chanarambie) is a single-purpose entity created by the project participants.

The PPA provides for a combined committed nameplate capacity of 85.5 MW of wind generation. The project nameplate rating is larger than the 79.5 MW project bid to account for line losses to the Point of Delivery. The wind energy will be generated from a 57 turbine facility proposed to be constructed near Xcel's Chanarambie substation on the Buffalo Ridge in southwest Minnesota.

II. SUMMARY OF ACTION AND FUTURE STEPS

In this Order, the Commission approves the Xcel-Chanarambie PPA, as amended. Specific amendments are: 1) amendment of the formula used to adjust for a change in the level of Production Tax Credit (PTC) appearing in Section 2.4 of the PPA and 2) amendment of Section 2.4 to add language for a price reduction in the case of an increase in the level of PTC.

The interconnection agreement for the PPA will be separately negotiated [through the Midwest Independent Transmission System Operator, Inc. (MISO), a regional transmission organization (RTO)] with Chanarambie and filed with the Federal Energy Regulatory Commission (FERC). The estimated commercial operation date for the project is November 1, 2003.

III. POWER PURCHASE ISSUES

A. Price

The Department concluded that the price to be paid by Xcel for the wind energy provided by Chanarambie as proposed in Appendix A is reasonable. However, the Department noted that the Guaranteed Price shown in Appendix A may be adjusted based on 1) curtailment and 2) changes in the Production Tax Credit (PTC). Regarding these two adjustments, the Commission finds as follows:

- The **curtailment** provision provides a temporary (between the project start date and the transmission upgrade completion date) substitute for transmission and appears to be the most economic way to compensate Chanarambie during the relatively short period between the project start date and Xcel's completion of the transmission upgrade. It is anticipated that Xcel will complete the transmission upgrade by August 31, 2004, after which the need for the curtailment provision will go away or be significantly diminished. In these circumstances, the curtailment provision results in the least cost supply of the wind energy and is a reasonable and necessary part of the PPA. The Commission notes that curtailment payments might not be prudent or reasonable under a different set of facts.
- Changes in PTCs also affect the price. As discussed below, the current PPA has been amended to properly respond to such changes.

Accordingly, the Commission agrees with the Department's analysis and concludes that the PPA's pricing provisions are reasonable.

B. Protection of Ratepayers

After reviewing the ratepayer risk protection features in the PPA, the Commission agrees with the Department that ratepayers are reasonably protected from the financial risk associated with:

- seller default and termination of the PPA in early years of the contract
- entitlement by a lender or other party to take over the project and terminate the PPA, as a result of the seller's failure to pay debt

The Commission also agrees with the Department's analysis that, except for the curtailment features in the PPA (as discussed above), ratepayers are reasonably protected from the operational risks associated with complete shutdown or partial shutdown of the project due to technical problems.

Finally, the Commission notes that the PPA includes restrictions on the sale or transfer of the wind facility, energy production guarantees, restriction on subcontracting, and provisions to allow Xcel to monitor operational aspects of the project.

C. Formula to Adjust for a Change in the Level of the PTC

Prior to the June 27, 2002 hearing, the parties (Xcel, Chanarambie, and the Department) agreed that the PPA initially filed incorrectly stated the formula to be used to adjust for a change in the level of the PTC, but did not agree how the formula should be restated.

At the June 27, 2002 hearing, the parties proposed language that they stated properly stated the formula. See Attachment A. The Commission finds that this language is reasonable and will approve it.

D. Potential Increase in the Production Tax Credit (PTC)

The Department proposed specific language be added to the PPA to allow ratepayers to receive any premiums resulting from an increase in the PTC. The Department argued that since ratepayers bear the risk of a potential reduction in the PTC, they are entitled to any premiums resulting from an increase in the PTC. Xcel and Chanarambie initially opposed the Department's proposal.

At the June 27, 2002 hearing, the parties proposed language that they stated properly provides for a price reduction in response to any premium (additional PTC) received by Chanarambie due to an increase in the level of PTC. See Attachment A. The Commission finds that this language is reasonable and will approve it.

E. Preventing Double Compensation for Calling an Interruption

Xcel should not be allowed to keep any compensation it receives for calling an interruption of the energy generated from the Chanarambie project while Xcel is continuing to recover curtailment provision costs from ratepayers. To prevent any such double recovery, the Commission will require Xcel to adjust the recovery level to ratepayers to reflect any such compensation.

F. Reporting Requirements Regarding Curtailments

The Commission has an interest in monitoring the use of the curtailment provision to assure that it is used for purposes approved in this Order. The Commission, therefore, will direct Xcel to identify, in its monthly fuel adjustment report, the date, length, cost to ratepayers, and reason for

each "available transmission capability" constraint (ATC Constraint in Appendix C of the PPA) associated with the Chanarambie project, and to summarize all such events in its annual automatic adjustment (AAA) report. Xcel did not object to making such reports.

G. Transmission Upgrade Costs Not Considered in this Docket

The Department raised the issue of transmission upgrade costs associated with the Chanarambie project and concluded that the curtailment payments (ATC constraint provisions in Appendix C) are a much cheaper option to eliminate the need for curtailments than Xcel's proposed transmission upgrades. The Department explained that it provided this analysis to ensure that all parties are aware of the magnitude of transmission costs related to the Chanarambie project. The Department noted that the review of the reasonableness of these costs will be performed in a separate docket.

Xcel disagreed with the Department's characterization of the transmission cost recovery issues, but agreed that these issues are not before the Commission and will be addressed in other dockets.

The Commission confirms that the filing before the Commission in this Order is limited to a request for approval of the PPA between Xcel and Chanarambie. In this docket, the Commission has simply considered whether the Chanarambie PPA is reasonable and leaves the issue of the approval and recovery of transmission upgrade costs related to the project to a future docket. Accordingly, the Commission's approval of the Xcel-Chanarambie PPA, as modified, in this Order does not entitle Xcel to recover transmission upgrade costs through an automatic adjustment provision.

ORDER

1. The Power Purchase Agreement (PPA) between Xcel and Chanarambie Power Partners LLC is approved, as modified herein.
2. The formula language in Section 2.4 (b), (iii) shall be corrected as proposed by Xcel and Chanarambie and agreed to by the Department at the Commission meeting on June 27, 2002. See Attachment A.
3. Section 2.4 (b), (iii) shall be further amended, as proposed by Xcel and Chanarambie and agreed to by the Department at the Commission meeting on June 27, 2002, to provide for a price reduction if Chanarambie experiences an increased level of the Production Tax Credit (PTC). See Attachment A.
4. To the extent that Xcel receives any compensation from the relevant transmission authority for calling an interruption of the energy generated from the Chanarambie project during a period that Xcel is recovering curtailment provision costs from ratepayers, Xcel shall adjust the recovery level to ratepayers to reflect this compensation.

5. In its monthly fuel adjustment report, Xcel shall identify the date, length, cost to ratepayers, and reason for each "available transmission capability" constraint (ATC Constraint in Appendix C of the PPA) associated with the Chanarambie project and shall summarize all such events in its annual automatic adjustment (AAA) report.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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